

Internal Revenue Service

District
Director

Department of the Treasury

10 MetroTech Center
625 Fulton Street
Brooklyn, NY 11201

Date:

SEP - 3 1996

Person to Contact:

Contact Telephone Number:

Refer Reply to:

Dear Applicant:

We have considered your application for recognition of exemption under section 501(c)(6) of the Internal Revenue Code.

The evidence presented disclosed that you were incorporated on

The purpose for which the corporation was formed is to foster and promote the interests of those persons, firms and corporations engaged in the retailing of in the

The qualifications necessary for membership are to be an entity actively engaged in the retailing of , who are duly authorized holders of for and who are doing business in or about the area and such other areas as may be designated from time to time by the Board of Directors.

Your organization's primary activity is to promote retail trade and commerce in connection with the products and services of its members. This includes providing print advertising and direct mailings which contain the names of each member and providing financial support to members to defray advertising promotion expenses and marketing.

Section 501(c)(6) of the Code provides for the exemption from federal income tax of business leagues not organized for profit no part of the net earnings of which inures to the benefit of any private shareholder or individual.

Section 1.501(c)(6)-1 of the Income Tax Regulations defines a business league as an association of persons having some common business interest, the purpose of which is to promote such common interest. Its activities should be directed towards the improvement of business conditions in one or more lines of business as distinguished from the performance of social services for individual persons.

In Revenue Ruling 58-294, 1958-1 C.B. 244, an association was organized and operated for the purpose of promoting uniform business, advertising and fair trade practices in connection with the manufacture and sale of a certain patented product. Membership in the association was limited to any person, firm, or corporation licensed to manufacture and sell the specified product. It was held that since the association was engaged in conditions of one or more lines of business, it does not qualify for exemption from Federal income tax as a business league under section 501(c)(6) of the Code.

In Revenue Ruling 68-182, 1968-1 C.B. 263, it is held that organizations promoting a single brand or product within a line of business do not qualify for exemption from Federal income tax under section 501(c)(6) of the Code.

In the case of National Muffler Dealers Association v. U.S., 440, U.S. 472(1979), the court held that an association of a particular brand name of muffler dealers does not qualify for exemption because the association is not engaged in the improvement of business conditions of a line of business.

Revenue Ruling 67-77, 1967-1 C.B. 138, states that an organization composed of dealers in a certain make of automobile in a designated area is organized and operated for the primary purpose of financing general advertising campaigns to promote, with funds contributed by the dealer members, the sale of that make of automobile. Held, the organization is performing particular services for its members instead of the automotive industry as a whole and is not entitled to exemption as a business league.

Revenue Ruling 64-315, 1964-2 C.B. 147, states that advertising which carries the names of members generally constitutes the performance of particular services for members. Thus, an association of merchants in a particular shopping center whose advertising material contained the names of the individual merchants was denied exemption.

An IRC 501(c)(6) organization's primary activity cannot be performing particular services for members.

Like the organization in Revenue Ruling 58-294, your organization was organized and operated for the purpose of promoting business and advertising in connection with the promotion of a franchised service business. Membership in the association is limited to franchisees. The association is engaged in furthering the business interest of the franchisees rather than the promotion of the collective interest of an industry as a whole.

Like the organization in Revenue Ruling 68-182, the association is promoting a single brand, [REDACTED], and for this reason does not qualify for exemption under IRC 501(c)(6).

As in the case of National Muffler Dealers Association, which was an association of owners of a particular brand name of muffler, your organization is an association of owners of a particular franchise. It was held in each of these cited Revenue Rulings as well as in the Court case that each of these organizations was performing particular services for its members and not engaged in the improvement of business conditions of a line of business. Your primary activity, which consists of providing general advertising for members of the organization constitutes particular services for your members. Promoting the business interest of owners of a particular franchise does not further the business condition of one or more lines of business.

Like the organizations described in Revenue Ruling 67-77 and Revenue Ruling 64-315, it has been determined that your organization is performing particular services for its members. Your organization engages in activities that further its members businesses and promotes ~~businesses~~

Furthermore, it has been determined that you fail to meet the organizational requirements under IRC section 501(c)(6) since you are incorporated under the Business Corporation Law of the State of New York.

Accordingly, we conclude that you do not meet the requirements for exempt status under section 501(c)(6) of the Code and propose to deny your request for exemption under that section.

We have also determined that you fail to qualify for exempt status under any other subsection of IRC 501(c).

You are required to file a taxable return Form 1120 or 1041 with the District Director Of Internal Revenue Service. Please send the return to:

Internal Revenue Service
PO Box 1680 OPO
Brooklyn, NY 11202

If you do not agree with this determination, you may request a Conference with the Regional Director of Appeals by protesting in accordance with the enclosed instructions within 30 days.

Protests submitted which do not contain all the documentation stated in the instructions will be returned for completion.

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If we do not hear from you within that time, this determination will become final.

Sincerely yours,

A handwritten signature in dark ink, appearing to read "Herbert J. Huff". The signature is written in a cursive style with a large, stylized "H" and "J".

Herbert J. Huff
District Director

Enclosure: Publication 892
cc: [REDACTED]